IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.3039 OF 2005

IN

REVIEW PETITION ST.NO.21824 OF 2005

IN

WRIT PETITION NO.10900 OF 2004

Dilipkumar Radheshyam Tiwari & Ors. ...Applicants.

Vs.

Shashikant G.Mehta & Ors. ....Respondents.

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Mr.A.G.Kothari for the Applicants.

Mr.Nitin Muley for Respondent Nos.1 to 5.

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CORAM : DR.D.Y.CHANDRACHUD, J.

November 28, 2005

P.C. :

This Court had dismissed the Writ Petition on 17th June 2005 and affirmed the concurrent findings of the Trial Court and the Appellate Bench of the Court of Small Causes that the tenancy had not been proved and that the Original Defendant was only an employee of the Public Trust in question.

Stay of execution of decree, however, was granted until 30th September 2005 in order to enable the Petitioner to have recourse to the remedies against the judgment. An affidavit was directed to be filed that the Petitioner shall not create any third party interest in the meantime until the stay continued in operation. On 25th September 2005, a Civil Application was filed for condoning the delay in filing the Review Petition and the only ground which is indicated is as follows:

> "The Applicants state that after the order was passed on 17th June 2005, his Ld. Advocate informed the same to the Applicants and the Applicants were terribly shocked. The Applicants state that because of shock they were not in position to take appropriate decision in the matter. The Applicants further submit that the Applicant No.4 was badly effected by the said shock and she is under medical treatment."

This is a patently untenable ground for condoning the delay. The Civil Application has been filed at the end of the period during which the decree was to be stayed. The application is

only an effort to get an extension of time and is an abuse of process. Even on merits no case for review has been made out. Each of the grounds in support of the review petition only seeks a reappreciation of the evidence on record. There is no error apparent on the face of the record. The Civil Application is rejected.

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